

## REMARKS

Claims 1-7 and 10-39 remain pending in the instant application. All claims presently stand rejected. Claims 1, 7, 10-12, 14, 16, 21, 24, 25, 30, 33, and 34 are amended herein. Claims 8 and 9 are hereby cancelled without prejudice. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Claim Rejections – 35 U.S.C. § 112*

Claim 7 stands rejection under §112, second paragraph, as being indefinite. Claim 7 has been amended to depend from claim 6. Accordingly, Applicants request the instant §112 rejection be withdrawn.

### *Claim Rejections – 35 U.S.C. § 102*

Claims 1, 3, 6, 8-13 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Suzuki et al. (US 6,891,793).

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Amended independent claim 1 now recites, in pertinent part,

employing an external gateway protocol to route the data between egress and ingress nodes of the first, second, and any intermediate network(s) along the route, wherein the external gateway protocol **includes an extended version of a Border Gateway Protocol (BGP) that includes an extension to the path attributes field in a BGP UPDATE message to enable advertisement of availability or non-availability of one or more communication paths between an ingress and an egress BGP router in a given OBS network;**

...

dynamically updating a routing table of a given BGP router in response to a route advertisement contained in the BGP UPDATE message received by the given BGP router.

Applicants respectfully submit that Suzuki fails to disclose an extended version of a BGP that includes an extension to the path attributes field in a BGP UPDATE message

for enabling advertisements of availability or non-availability of communication paths over an OBS network.

To be sure, the most relevant portions of Suzuki disclose,

Each of the label switches acquires routing information (communication route information) in the core network according to known routing protocol such as OSPF (Open Shortest Path First) or BGP4 (Border Gateway Protocol Version 4). Each of the label switches generates information of a path identifier (called a "label") corresponding to the acquired routing information, and transmits the routing information and the label information to an edge node whose order is lower than the corresponding label switch itself according to label distribution protocol (LDP).

Each of the edge nodes receives the routing information and the label information from the high-order label switch according to the LDP. At this time, each of the edge nodes generates and holds a look-up table in which the routing information is related to the label information. (Suzuki, col. 1, lines 30-45)

In this example, it is assumed that the label switches 1 to 4 belong to the same AS (Autonomous System: operation area of OSPF). In contrast to this, when the label switches 1 to 4 extend over a plurality of ASs, the OSPF processor 53 of each of the label switches 1 to 4 uses BGP4 as routing protocol to generate routing information. (Suzuki, col. 12, lines 11-16)

These portions of Suzuki disclose label switches that use the OSPF and BGP4 routing protocols to acquire routing information. However, these portions fail to disclose an extended version of a BGP that includes an extension to the path attributes field in a BGP UPDATE message for enabling advertisements of availability or non-availability of communication paths over an OBS network. Suzuki simply does not disclose extending the "path attributes field" of a BGP UPDATE message.

By way of example, not limitation, FIG. 7 and 8b illustrate extensions to the path attributes field 206 of a BGP UPDATE message. For example, these extensions include the PBS connection field 226, available wavelength attribute field 228, and available fiber attribute field 230. These extensions, which may be used "for enabling advertisements of availability or non-availability of communication paths over an OBS network" are not disclosed in Suzuki. In fact, Suzuki makes not mention of a "path attributes field" much less any extensions thereto.

Consequently, Suzuki fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 21, and 30 include similar novel

elements as independent claim 1. Accordingly, withdrawal of the instant §102 rejections of claims 1, 21, and 30 is requested.

The dependent claims are novel over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 rejections of the dependent claims be withdrawn.

*Claim Rejections – 35 U.S.C. § 103*

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki et al.* (US 6,891,793) in view of Xiong et al..

Claims 2, 4-5 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki et al.* (US 6,891,793).

Claims 16, 19-22, 24-31, 33-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki et al.* (US 6,891,793) in view of Zang et al. (US 7,209,975).

Claims 18, 23 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki et al.* (US 6,891,793) in view of Zang et al. (US 7,209,975) and further Xiong et al..

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Amended independent claim 16 now recites, in pertinent part,

interchanging BGP UPDATE messages between the edge nodes that are designated as BGP routers, the BGP UPDATE messages including an extension to a path attributes field to enable advertisement of availability or non-availability of one or more communication paths between an ingress and an egress BGP router in a given OBS network;

For the reasons discussed above in connection with claim 1, Applicants respectfully submit that the combination of Suzuki and Zang fails to disclose, teach, or suggest a BGP UPDATE messages including an extension to the path attributes field to enable

advertisement of an availability or non-availability of one or more communication paths between an ingress and egress BGP router.

Consequently, the combination of Suzuki and Zang fails to teach or suggest all elements of claim 16, as required under M.P.E.P. § 2143.03. Accordingly, Applicants request that the instant §103(a) rejections of claims 16 be withdrawn.

The dependent claims are nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections of the dependent claims be withdrawn.

### **CONCLUSION**

In view of the foregoing amendments and remarks, it is believed that the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

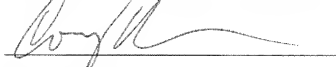
### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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